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1 UNITED STATES PATENT AND TRADEMARK OFFICE
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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

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8 *Ex parte* TOSIYASU L. KUNII
9

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11 Appeal 2009-011278
12 Application 09/991,953
13 Technology Center 3600
14

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16 Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and JOSEPH
17 A. FISCHETTI, *Administrative Patent Judges*.
18 FETTING, *Administrative Patent Judge*.

19 DECISION ON APPEAL¹
20

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE²

Tosiyasu L. Kunii (Appellant) seeks review under 35 U.S.C. § 134 (2002) of a final rejection of claims 6-17 and 23-25, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The Appellant invented a method, apparatus, system, database, or the like for supporting electronic commerce or any business using a network. Specification 1:12-17.

An understanding of the invention can be derived from a reading of exemplary claim 23, which is reproduced below [bracketed matter and some paragraphing added].

23. An electronic commercial transaction supporting method, comprising:

[1] providing an e-mall having at least one e-shop, including:

[a] an e-merchandise database, and

[b] an attribute correspondence table;

[2] recording, within the e-merchandise database, an initial set of product attributes associated with a plurality of products;

² Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed November 19, 2007) and Reply Brief ("Reply Br.," filed January 27, 2009), and the Examiner's Answer ("Ans.," mailed November 28, 2008), and Final Rejection ("Final Rej.," mailed April 19, 2007).

- 1 [3] receiving a first customer query from a first e-customer
2 via a network, said query including a set of first search
3 attributes;
- 4 [4] presenting, to the first e-customer, first product results
5 including at least one product selected from the plurality of
6 products, the first product results based on:
- 7 [a] the initial set of product attributes, and
8 [b] the first search attributes;
- 9 [5] detecting if the first e-customer purchases a first product
10 selected from the first product results;
- 11 [6] determining if any attributes of the first search attributes
12 did not previously exist in the attribute correspondence table,
13 and for each such attribute:
- 14 [a] defining such attribute as a new attribute, and
15 [b] recording at least one new correspondence
16 relationship between the new attribute and a product attribute
17 that is associated with the first product in the attribute
18 correspondence table; and
- 19 [7] for at least one iteration:
- 20 [a] receiving a subsequent customer query from a
21 subsequent e-customer, said subsequent customer query
22 including a set of subsequent search attributes;
- 23 [b] presenting, to the subsequent e-customer,
24 subsequent product results including at least one product
25 selected from the plurality of products, the subsequent product
26 results based on:
- 27 [i] the initial set of product attributes,
28 [ii] the subsequent search attributes, and
29 [iii] the correspondence relationships recorded in
30 the attribute correspondence table;
- 31 [c] detecting if the subsequent e-customer purchases a
32 subsequent product selected from the subsequent product
33 results;

[d] determining if any attributes of the subsequent search attributes did not previously exist in the attribute correspondence table, and for each such attribute:

[i] defining such attribute as a new attribute,
and

[ii] recording at least one new correspondence relationship between the new attribute and a product attribute that is associated with the subsequent product in the attribute correspondence table.

The Examiner relies upon the following prior art:

Bauer et al.	US 5,926,816	Jul. 20, 1999
Bowman et al.	US 6,169,986 B1	Jan. 2, 2001
Ng	US 6,405,175 B1	Jun. 11, 2002

Claims 6-14 and 23-24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Bowman and Ng.

Claims 15-17 and 25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Bowman, Ng, and Bauer.

ISSUES

The issue of whether the Examiner erred in rejecting claims 6-14 and 23-24 under 35 U.S.C. § 103(a) as unpatentable over Bowman and Ng turns on whether Bowman and Ng fail describe limitation [7][d][ii] of claim 23.

The issue of whether the Examiner erred in rejecting claims 15-17 and 25 under 35 U.S.C. § 103(a) as unpatentable over Bowman, Ng, and Bauer turns on whether Bauer describes detecting contradicting correspondence

relations and keeping the more appropriate correspondence relation, while deleting the other correspondence, as required by claim 25, and whether a person with ordinary skill in the art would have been motivated to combine Bowman, Ng. and Bauer.

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

Facts Related to the Prior Art

Bowman

01. Bowman is directed to techniques for facilitating the process of refining search queries. Bowman 1:13-16. The refinement process is exemplified by a search engine used to assist customers of Amazon.com in locating products such as books and CDs. Bowman 5:9-12. Bowman describes a system where related terms are generated using query term correlation data based on historical query submissions to a search engine. Bowman 2:32-34. The query term correlation data is preferably based on the frequencies with which specific terms have been historically submitted together within the same query. Bowman 2:34-38. Each entry in the correlation table has two components, a key term and related terms. Bowman 7:1-4. Related terms list is a list of query terms that have appeared within the same query as the keyword with the highest degree of frequency and are ordered by frequency.

Bowman 7:4-7. A query correlation table is built using daily log files. Bowman 8:40-41. A user enters search terms for a product based on the title, subject, etc. Bowman 7:23-25. The web server applies the query to the bibliographic database and related term selection process and returns the query listing results to the user. Bowman 7:42-61. The table generation process maps each query key term to the related terms used in that particular query. Bowman 10:48-50. For example, a query of "Rough Guide to London" correlates the terms "Guide," "to," and "London" to the key term "Rough." Bowman 10:57-64. Another example is the search for "Cosmos Astronomy," where cosmos is in the title of the product and astronomy is the subject of the product. Bowman 7:32-38. The system ignores unsuccessful query submissions, where a successful query submission results in which the item count is greater than zero. Bowman 10:1-12. In addition, the amount by which the correlation scores are incremented may be increased or decreased depending on different actions performed by the user, including the action of the user purchasing an item or adding the item to the shopping cart. Bowman 11:35-49. The correlation table merges daily log file results for a specified number of days and replaces the existing query correlation table. Bowman 9:52-53.

Ng

02. Ng is directed to a customer rewards program. Ng 1:10-12. Ng is concerned with providing users the ability to find products and price information in a simple manner. Ng 3:1-6. Ng describes a

1 system that includes a searchable database that contains
2 information submitted by reward users and writes information to a
3 target record after submission. Ng 3:23-28.

4 *Bauer*

5 03. Bauer is directed to a database synchronizer that facilitates the
6 sharing of data in systems that have client-side and server-side
7 applications that are not continuously connected to a single shared
8 data source. Bauer 1:58-62. First, the client determines what
9 modifications to the client data have taken place since the last time
10 of synchronization. Bauer 2:7-9. Modifications include the
11 creation of a new data item, an update to the value of an existing
12 data item, and the deletion of a data item. Bauer 2:9-12. Second,
13 modifications are propagated to the server, which has determines
14 what changes have taken place to the server data since the last
15 time of synchronization. Bauer 2:16-19. Third, the server detects
16 data conflicts, resolves them, and propagates modifications back
17 to the client. Bauer 2:19-21. Conflicts are resolved in favor of
18 either the server or client so proper values are stored in the
19 server's database. Bauer 4:10-12.

20
21 ANALYSIS

22 *Claims 6-14 and 23-24 rejected under 35 U.S.C. § 103(a) as*
23 *unpatentable over Bowman and Ng*

1 The Appellant first contends that Bowman and Ng fail to describe
2 limitations [6] and [6][b] of claim 23. App. Br. 14-20 and Reply Br. 2-3.
3 The Appellant specifically argues that Bowman and Ng fail to describe
4 creating new relationships between new attributes and products based on a
5 user's purchasing decision. App. Br. 16-19 and Reply Br. 2-3. We disagree
6 with the Appellants.

7 The Appellant argues that the Examiner failed to map where Bowman
8 describes each of the limitations of claim 23 and therefore we begin with an
9 analysis of each of the limitations. App. Br. 15. Limitation [1] requires
10 providing an e-mall having at least one e-shop including an e-merchandise
11 database and an attribute correspondence table.

12 Bowman describes an e-mall, such as Amazon.com, that has a database
13 of products and a correspondence table to assist users in searching for
14 products. FF 01. Limitation [2] requires an initial set of product attributes
15 associated with products. Bowman describes a correspondence table that
16 has search terms associated to products. FF 01. The correspondence table
17 includes product attributes, such as product title and product subject. FF 01.

18 Limitation [3] requires receiving a first customer query including a set of
19 first search attributes. Bowman describes that a user enters search terms for
20 products and includes product attributes such as the product title or subject.
21 FF 01.

22 Limitation [4] requires presenting the results to the user based on the
23 initial and search attributes. Bowman describes that a web server applies the
24 search query to the bibliographic database and the correspondence table and
25 returns the query results list to the user. FF 01.

1 Limitation [5] requires detecting if the user purchases a product from
2 the results list. Bowman describes that the scores in the correlation table are
3 adjusted based on a user's action, including the action of the user purchasing
4 a selected item from the query result list. FF 01.

5 Limitation [6], [6][a], and [6][b] require determining whether the
6 attribute did not previously exist in the attribute correspondence table,
7 defining such an attribute as a new attribute, and recording at least one new
8 correspondence relationship between the new attribute and a product
9 attribute that is associated with the first product in the attribute
10 correspondence table. Bowman describes that search queries are captured in
11 daily log files and after a specified number of days the daily log file are
12 parsed to create a new correspondence table. FF 01.

13 Since the correspondence table is created from the new daily log files, all
14 of the new associations between the terms and products in the daily log files
15 are new associations. Limitation [7] further requires iterations of limitations
16 [1] – [6] including the newly associated terms and products. Bowman
17 describes that all of these steps are repeated for a specified number of days
18 until a new correspondence table is created. FF 01. As such, Bowman
19 describes each of the limitations of claim 23.

20 The Appellant further argues that refining a search query is distinctly
21 different from recording a new correspondence relationship between a new
22 attribute and a product attribute because refining a search query only adds
23 new related search terms that already have some relation to the search terms
24 in the bibliographic database. App. Br. 18.

1 However, Bowman explicitly describes that a new correspondence
2 relationships collected from daily log files replace existing relationships, as
3 discussed *supra*. FF 01. Bowman further describes that the web server
4 applies entered search terms against the bibliographic database *and* the
5 correspondence table to determine the query results listing. FF 01. As such,
6 each of the queries parsed in new daily log files is treated as a new attribute
7 and a new relationship between the terms and products is created.

8 The Appellant also contends that Bowman and Ng teach away from the
9 claimed invention. App. Br. 20. The Appellant specifically argues that
10 Bowman fails to describe new attributes related to products, Bowman
11 teaches away from a symmetric relationship in terms of correspondence
12 between key terms and related terms, as required by claim 6, and Ng fails to
13 describe the type of associations between attributes and products. App. Br.
14 20 and 22-23. We disagree with the Appellants.

15 First, Bowman describes new attributes related to products as discussed
16 *supra*. Furthermore, the Appellant's arguments only illustrate alleged
17 deficiencies in Bowman (as discussed *supra*) and Ng (discussed *infra*) but
18 fail to specifically provide any rationale as to why Bowman or Ng teach
19 away from the claimed invention. As such, the Appellant's arguments
20 regarding Bowman and Ng teach away from the claimed invention are not
21 found persuasive.

22 The Appellant's contention that Ng fails to describe the type of
23 associations between attributes and products is also not found to be
24 persuasive because the Examiner has not relied on Ng to describe these
25 features in the rejection of claim 23. As such, the Appellant is responding to

1 the rejection by attacking the references separately, even though the
2 rejection is based on the combined teachings of the references.
3 Nonobviousness cannot be established by attacking the references
4 individually when the rejection is predicated upon a combination of prior art
5 disclosures. *See In re Merck & Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir.
6 1986).

7 The Appellant further contends that Bowman and Ng fail to describe the
8 additional limitations of claim 24 and 6-14. App. Br. 21-23. We disagree
9 with the Appellant.

10 The Appellant's arguments regarding the limitations in claims 24 and 6-
11 14 are no more than general allegations that those limitations are not
12 described by Bowman and Ng. "It is not the function of this court to
13 examine the claims in greater detail than argued by an Appellant, looking for
14 nonobvious distinctions over the prior art." *In re Baxter Travenol Labs*, 952
15 F.2d 388, 391 (Fed. Cir. 1991). *See also In re Wiseman*, 596 F.2d 1019,
16 1022 (CCPA 1979) (arguments must first be presented to the board). A
17 general allegation that the art does not teach any of the claim limitations is
18 no more than merely pointing out the claim limitations. A statement which
19 merely points out what a claim recites will not be considered an argument
20 for separate patentability of the claim. 37 C.F.R. § 41.37(c)(1)(vii).

21
22 *Claims 15-17 and 25 rejected under 35 U.S.C. § 103(a) as unpatentable*
23 *over Bowman, Ng, and Bauer*

24 The Appellant first contends that Bauer fails to describe detecting
25 contradicting correspondence relations and keeping the more appropriate

correspondence relation, while deleting the other correspondence, as required by claim 25. App. Br. 24-27. We disagree with the Appellant.

Claim 25 requires detecting a mutually-contradicting correspondence, defining a false correspondence, and deleting the false correspondence from the attribute correspondence table. Bauer describes a database synchronization process that synchronizes data between a client and a server in a system where the client is not continuously connected to the data source. FF 03. Bauer further describes that the server detects conflicts in the data values between the client and the server and resolves these conflicts in favor of the client or server so that proper values are stored. FF 03. This implies that the incorrect or false data values are deleted such that only the correct data values are stored. As such, Bauer describes a database system that detects contradicting correspondence values and resolves these conflicts by keeping the correct value while deleting the false or incorrect value.

The Appellant further contends that a person with ordinary skill in the art would not have been motivated to combine Bowman, Ng, and Bauer and Bauer teaches away from Bowman and Ng. App. Br. 24-25. We disagree with the Appellant.

Bowman, Ng, and Bauer are all concerned with maintaining accurate information in a searchable database. FF 01-03. Bowman accomplishes this goal by generating a correlation table of terms of used in search queries to increase the accuracy of the results displayed to users. FF 01. Ng also solves this problem by providing a searchable database that includes information submitted by users. FF 02. Bauer further solves this problem by providing a database synchronizer that resolves conflicting data to

maintain accurate information in a server's database. FF 03. A person with ordinary skill in the art would have been motivated to combine these references in order to increase the accuracy of the content of the database and provide users with accurate database search results. As such, Bowman, Ng, and Bauer are concerned with the same problem and one of ordinary skill in the art would have been lead to combine their teachings.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting claims 6-14 and 23-24 under 35 U.S.C. § 103(a) as unpatentable over Bowman and Ng.

The Examiner did not err in rejecting claims 15-17 and 25 under 35 U.S.C. § 103(a) as unpatentable over Bowman, Ng, and Bauer.

DECISION

To summarize, our decision is as follows.

- The rejection of claims 6-14 and 23-24 under 35 U.S.C. § 103(a) as unpatentable over Bowman and Ng is sustained.
- The rejection of claims 15-17 and 25 under 35 U.S.C. § 103(a) as unpatentable over Bowman, Ng, and Bauer is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

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2

3

4 JRG

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